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# STATE OF INDIANA

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DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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**To: Taxing Units**

**From: Department of Local Government Finance**

**Re: Legislative Summary**

**Date: December 2003**

**The following is intended to be a brief summary of pertinent legislation enacted by the General Assembly during the 2003 special session and approved by the Governor. To review the Act in its entirety, you may locate a copy at the following website: [http://www.state.in.us/serv/lssa\\_billinfo](http://www.state.in.us/serv/lssa_billinfo).**

## **Senate Enrolled Act 1**

SECTION 1. Effective upon passage. Amends IC 4-22-2-37.1 to include within provisions governing emergency rulemaking, the Indiana Board of Review emergency rulemaking powers under the new assessment appeal process established under IC 6-1.1-4-37(l), and the Department of Local Government Finance emergency rulemaking powers for state ordered reassessments under IC 6-1.1-4-36(j) or IC 6-1.1-22.5, the new chapter authorizing provisional property tax billings by county treasurers.

SECTION 2. Effective upon passage. Amends IC 5-13-10 to permit the state treasurer to use state funds to repay obligations issued by the Indiana Bond Bank on behalf of local governments that have not collected taxes due to the delay in reassessment.

SECTION 3. Effective upon passage. Adds IC 6-1.1-1-8.7 to reflect that "mobile home" has the meaning set forth in IC 6-1.1-7-1.

SECTION 4. Effective upon passage. Adds IC 6-1.1-4-35 to permit the Department of Local Government Finance to order a state conducted reassessment in counties other than Lake if the Department determines that the county's reassessment officials have not completed equalization process by October 20, 2003, or are otherwise are unable to complete reassessment in a timely or an accurate manner.

SECTION 5. Effective upon passage. Adds IC 6-1.1-4-36 concerning informal hearings to be conducted in a county (other than Lake) in which a state ordered reassessment is being conducted.

SECTION 6. Effective upon passage. Adds IC 6-1.1-4-37 to provide a mechanism for appeals of state ordered reassessments.

SECTION 7. Effective upon passage. Adds IC 6-1.1-4-38 concerning the duties of assessing officials and other county officials to produce information to assist the contractor conducting a state ordered reassessment.

SECTION 8. Effective upon passage. Adds IC 6-1.1-4-39 to establish the methodology for the determination of the true tax value of residential rental property for assessment dates after February 28, 2005. Requires the assessor to determine the assessment based upon the cost approach, the income approach and the sales approach and assess based upon the least of the three methods of appraisals. Provides that the gross rent multiplier method is the preferred method of valuing: (1) real property that has at least one and not more than 4 rental units; and (2) mobile homes assessed under IC 6-1.1-7.

SECTION 9. Effective upon passage. Amends IC 6-1.1-5.5-3 to permit the electronic filing of sales disclosure forms prior to January 1, 2005, and to require electronic filing of disclosure forms after December 31, 2004 in a format specified jointly by the Department of Local Government Finance and the Legislative Services Agency.

SECTION 10. Effective January 1, 2004. Amends IC 6-1.1-5.5-4-7 to permit money in the assessment training fund to be used by the Department of Local Government Finance to cover expenses incurred in the development and administration of programs for the training of assessment officials and employees of the Department, including the required assessor-appraiser examination and certification program. Provides that the fund does not revert to the state general fund at the end of the year.

SECTION 11. Effective upon passage. Amends IC 6-1.1-7-2 to require the Department of Local Government Finance's rules for assessing mobile homes to be consistent with new requirements that the Department's rules for personal property assessment include instructions for determining the productivity or earning capacity of mobile homes that are regularly rented as residential property.

SECTION 12. Effective upon passage. Amends IC 6-1.1-9-1 requiring a notice of assessment of omitted property to be given as part of the initial statement issued under IC 6-1.1-22-8 that is affected by the assessment or increase. The notice must include a statement describing the taxpayer's right to a preliminary conference with the township assessor to review the assessment, and the taxpayer's right to a review with the county property tax assessment board of appeals.

SECTION 13. Effective upon passage. Amends IC 6-1.1-15-1 to change the process for challenging an assessment of property from a petition for review (Form 130) to a request for a preliminary conference. These provisions are effective immediately. A more detailed memo on implementation is forthcoming.

SECTION 14. Effective upon passage. Amends IC 6-1.1-15-2.1 to eliminate the requirement that a petition be filed to seek review of an assessment of tangible property.

SECTION 15. Effective upon passage. Amends IC 6-1.1-15-3 to require a petition to the Indiana board of review to include information concerning a preliminary conference with a county or township assessing official, if one was conducted.

SECTION 16. Effective upon passage. Amends IC 6-1.1-15-4 to require the Indiana board of tax review to indicate the board's agreement or disagreement with each item that was part of a preliminary conference, if any was conducted.

SECTION 17. Effective upon passage. Amends IC 6-1.1-15-10 to eliminate the "appeals buffer," or the authority of the Department of Local Government Finance to exclude assessed value pertaining to pending appeals when establishing rates and calculating state school support. Authority is limited to exclusion of assessed value that meets the requirements of IC 6-1.1-15-0.5(b).

SECTION 18. Effective upon passage. Amends IC 6-1.1-15-11 to require the county auditor to issue property tax refunds without the requirement that a claim be filed. The auditor is required to notify the board of commissioners of the payment of refunds and include the payment in the publication of claims prior to the meetings of the board of commissioners.

SECTION 19. Effective July 1, 2004. Amends IC 6-1.1-17-20 to include public library districts within the definition of taxing units to which the statute applies. The statute applies to each appointed governing body of a taxing unit if the proposed property tax levy for the taxing unit exceeds by more than 5% the prior year's tax levy. A taxing unit that qualifies must submit its proposed budget and property tax levy to the city or town fiscal body. The fiscal body may reduce or modify the taxing unit's levy, but not increase it. Deletes current prohibition against reducing levy below unit's maximum permissible levy.

SECTION 20. Effective upon passage. Adds IC 6-1.1-18-12 to define "maximum rate" for taxes first due and payable after 2003. Requires the maximum rate to be adjusted each time an annual adjustment to real property takes place or each time a general reassessment takes place. Establishes a formula for determining the new maximum rate. Department of Local Government Finance is in the process of computing the rate adjustments for 2003 pay 04.

SECTION 21. Effective upon passage. Amends IC 6-1.1-18.5-1 to change the definition of "maximum permissible ad-valorem property tax levy for the preceding calendar year" to eliminate "banking" of unused permissible levy amounts, effective pay 2004. Provides that next year's maximum permissible levy is the previous year's levy as certified by the Department of Local Government Finance.

SECTION 22. Effective upon passage. Amends IC 6-1.1-18.5-13 to eliminate the excessive levy appeal to reallocate the amount of CAGIT set aside for property tax replacement, effective pay 2004. Applies to CAGIT counties only.

SECTION 23. Effective upon passage. Amends IC 6-1.1-18.5-16 to permit a civil taxing unit to request an excessive levy appeal if the civil taxing unit experienced a property tax revenue shortfall because of the payment of property tax refunds from appeals.

SECTION 24. Effective July 1, 2004. Amends IC 6-1.1-18.5-17 to require a taxing unit to deposit in its levy excess fund the part of its levy actually collected that exceeds the approved levy. Eliminates ability to keep levy excess up to 102% of certified levy. The Department of Local Government Finance will calculate levy excess at 100% of certified levy for 2003 pay 2004 and use to reduce 2005 pay 2006 property taxes.

SECTION 25. Retroactive July 1, 2003. Amends IC 6-1.1-18.6-2 to prohibit a county from imposing a county family and children property tax levy that exceeds the amount determined in the formula set forth in IC 12-19-7-4.

SECTION 26. Retroactive July 1, 2003. Amends IC 6-1.1-18.6-2.2 to prohibit a county from imposing a county children's psychiatric residential treatment services property tax levy that exceeds the amount determined in the formula set forth in IC 12-19-7.5-6.

SECTION 27. Effective upon passage, but applicable to property taxes first due and payable after December 31, 2003. Amends IC 6-1.1-19-1.5 to eliminate language permitting the Department of Local Government Finance to adjust the total assessed value of a school corporation to eliminate the effects of appeals and settlements arising from the general reassessment in determining the school corporation general fund property tax levy. Amends the formula for determining the school corporation general fund maximum levy.

SECTION 28. Effective July 1, 2004. Amends IC 6-1.1-19-1.7 to require a school corporation to deposit in its levy excess fund the part of its levy actually collected that exceeds the approved levy. Eliminates ability to keep levy excess up to 102% of certified levy. The Department of Local Government Finance will calculate levy excess at 100% of certified levy for 2003 pay 2004 and use to reduce 2005 pay 2006 property taxes.

SECTION 29. Effective upon passage. Amends IC 6-1.1-19-4.7 concerning appeals for emergency relief for schools to clarify that the payment of refunds resulting from property tax appeals and determinations by the Indiana board of tax review is grounds for such relief, consistent with prior practice.

SECTION 30. Effective March 1, 2004. Amends IC 6-1.1-20-3.1 (petition/remonstrance process for property tax based bonds and leases) to require the state board of accounts to design the forms used for the process to petition for the application of the petition/remonstrance process. Reduces the number of persons required to sign an application from 250 to 100 or from 10% to 5% of the owners of real property within the political subdivision.

SECTION 31. Effective March 1, 2004. Amends IC 6-1.1-20-3.2 (petition/remonstrance process for property tax based bonds and leases) to require petition/remonstrance forms to contain instructions detailing the requirements that apply to a carrier of a petition under IC 6-1.1-20-10, which prohibits a political subdivision from promoting a position with respect to a financing. State Board of Accounts shall design the forms.

SECTION 32. Effective March 1, 2004. Adds IC 6-1.1-20-10 to prohibit a political subdivision, during the petition/remonstrance process from promoting a position on the petition or remonstrance. Prohibits solicitation or collection of signatures on property owned or controlled by the political subdivision.

SECTION 33. Effective upon passage. Amends IC 6-1.1-21-2 to update cross-references to statutory provisions changed by the bill related to property tax replacement credits.

SECTION 34. Effective upon passage. Amends IC 6-1.1-21-5 to include a cross-reference to the payment of property taxes in installments in the section describing the payment of property tax replacement credits.

SECTION 35. Effective upon passage. Amends IC 6-1.1-22-9 to include a cross-reference to IC 6-1.1-22-9.5 concerning installment payments of property taxes and distribution of property tax replacement credits. Changes a reference from “his” to “person’s;”

SECTION 36. Effective upon passage. Adds IC 6-1.1-22-9.5 to permit a county treasurer, prior to the mailing of tax statements, to petition the Department of Local Government Finance to establish installment payment schedules for homesteads and for mobile homes not assessed as real property. The county fiscal body, county auditor and county treasurer must approve the petition. This applies to property taxes first due and payable in a year after December 31, 2003.

SECTION 37. Effective upon passage. Adds IC 6-1.1-22.5 to provide a mechanism for the use of provisional property tax billings at 90%. Outlines the steps for issuance of a provisional tax statement.

Applies to property taxes payable on assessments determined for the 2003 assessment date or the assessment date in any later year. The county treasurer may use provisional billing if the county auditor fails to deliver the abstract for that assessment date before March 16 of the year following the assessment date.

The county treasurer gives notice of the provisional statement, including the method that is to be used in determining the tax liability on the provisional statement by publication, one time, in the form prescribed by the Department of Local Government Finance and in the manner prescribed in IC 6-1.1-22-4(b).

The county auditor of a county of fifty property tax owners in the county may, not more than five days after the publication of the notice, request in writing that the Department of Local Government Finance waive the use of a provisional statement.

Upon receipt of a written request, the Department of Local Government Finance shall give notice of a hearing concerning the request to waive provisional statements and after the hearing, may waive the use of a provisional statement if sufficient evidence was presented at the hearing.

SECTION 38. Effective upon passage. Amends IC 6-1.1-31-3 to include sales data compiled for comparable properties within the list of information the Department of Local Government Finance may consider in the preparation of rules, regulations, forms and returns.

SECTION 39. Effective upon passage. Amends IC 6-1.1-31-5 to clarify that subject to IC 6-1.1, the rules adopted by the Department of Local Government Finance are the basis for determining the true tax value of tangible property.

SECTION 40. Effective upon passage. Amends IC 6-1.1-31-6 to provide that the rules of the Department of Local Government Finance shall include instructions for determining: the productivity or earning capacity of agricultural land and real property regularly used to rent or otherwise furnish residential

accommodations for periods of 30 days or more and sales data for generally comparable properties; in the assessment of real property.

SECTION 41. Effective upon passage. Amends IC 6-1.1-31-7 to require the inclusion of instructions for determining the productivity or earning capacity of mobile homes used to rent or furnish residential accommodations for periods of 30 days or more and sales data for generally comparable mobile homes with respect to the assessment of personal property.

SECTION 42. Effective July 1, 2004. Amends IC 6-1.1-35-1.1 to require elected county and township assessors (as of July 1, 2004) who have not been certified as level two assessor-appraisers to employ at least one. Requires elected county or township assessor or trustee-assessor to attain level one assessor-appraiser certification within one year after taking office and level two-assessor appraiser certification within two years after taking office. Failure to do so results in the forfeiture of the elective office. The same requirements are imposed on persons who fill office vacancies.

SECTION 43. Effective March 1, 2004. Amends IC 6-1.1-35.5-1 to require the Department of Local Government Finance to design and implement the assessor-appraiser examination and certification program in a manner that maximizes the number of certified assessor-appraisers involved in the assessment process.

SECTION 44. Effective March 1, 2004. Amends IC 6-1.1-35.5-4 to require the Department of Local Government Finance to administer the level one and level two examinations in an open book format and to design both examinations to approximate the work an assessing official is required to perform, including the use of appropriate computer applications.

SECTION 45. Effective upon passage. Amends IC 6-1.1-37-9 to recognize waiver of penalties for late payment of property taxes.

SECTION 46. Effective upon passage. Amends IC 6-1.1-37-10 to recognize the payment of property taxes in more than two installments. Clarifies how the 10% penalty is to be applied when property taxes are paid in more than two installments.

SECTION 47. Effective upon passage. Adds IC 6-1.1-37-10.5 to permit a county treasurer, a county auditor and the county fiscal body to petition the Department of Local Government Finance to waive all or part of the late payment of property taxes with respect to one or more classes of real property. The Department of Local Government Finance has thirty days to make a determination to waive all or a part of the penalty imposed.

SECTION 48. Effective upon passage. Amends IC 6-1.1-39-6 (economic development project districts) to conform the application of the additional property tax replacement credit to installment payments of property taxes on residential property.

SECTION 49. Effective January 1, 2004. Amends IC 6-3-1-3.5 to provide an increase in the maximum homeowner's property tax deduction from adjusted gross income for taxpayers who pay any of their 2003 property taxes in 2004.

SECTION 50. Effective upon passage. Amends IC 8-22-3.5-10 (Airport Development Zone) to conform the application of the additional credit to installment payments of residential property taxes.

SECTION 51. Effective upon passage. Amends IC 12-13-8-5 to provide an adjustment to the calculation of the medical assistance property tax levy, requiring the exclusion of temporary excess levy appeals and any other temporary adjustments made to the levy for the preceding calendar year. Department of Local Government finance will make the adjustment.

SECTION 52. Effective upon passage. Amends IC 12-19-7-4 to change the formula for the county family and children levy, requiring the exclusion of temporary excess levy appeals and any other temporary adjustments made to the levy for the preceding calendar year. Department of Local Government Finance will make the adjustment.

SECTION 53. Effective upon passage. Amends IC 12-19-7.5-6 to provide an adjustment to the calculation of the county children's psychiatric residential treatment services property tax levy, requiring the exclusion of temporary excess levy appeals and any other temporary adjustments made to the levy for the preceding calendar year. Department of Local Government Finance will make the adjustment.

SECTION 54. Effective upon passage. Amends IC 12-29-2-2 to provide a mechanism for adjusting the tax rate for community mental health centers similar to the mechanism established in IC 6-1.1-18-12 (adjusts for annual adjustments of real property assessed value and for periodic general reassessment of real property). Department of Local Government Finance will make the adjustment.

SECTION 55. Effective upon passage. Amends IC 12-29-2-5 concerning the maximum appropriation by a county for a community mental health center budget.

SECTION 56. Effective upon passage. Amends IC 16-35-3-3 to change the formula for the county children with special health care needs levy, requiring the exclusion of temporary excess levy appeals and any other temporary adjustments made to the levy for the preceding calendar year. Department of Local Government Finance will make the adjustment.

SECTION 57. Effective upon passage. Amends IC 20-5.5-7-3 to make cross reference to the statute providing the mechanism for calculating the school general fund maximum permissible levy in the statute prescribing the information to be provided by the department of education to the Department of Local Government Finance determining the amount of state tuition support to be distributed to a charter school organizer.

SECTION 58. Effective upon passage. Amends IC 21-1-3-8 to permit the common school fund to be invested in bonds, notes or other securities issued by the Indiana bond bank and described in IC 5-13-10.5-11(3).

SECTION 59. Effective upon passage. Amends IC 21-2-11.5-3 to require an adjustment to a school corporation's transportation fund levy, requiring the exclusion of temporary excess levy appeals and any other temporary adjustments made to the levy for the preceding calendar year. If the amount levies in a

particular year exceeds the amount necessary to cover costs payable from the fund, the following year's levy shall be reduced by the amount of surplus funds. Department of Local Government Finance will make the adjustment.

SECTION 60. Effective upon passage. Amends IC 21-3-1.7-6.8 to include a cross-reference to the statute establishing the formula for determining a school corporation's maximum permissible levy in the formula for determining a school corporation's state tuition support.

SECTION 61. Effective July 1, 2004, but comes into play in 2007, after next election. Amends IC 36-2-15-2 to provide that county assessor forfeits the office if the assessor fails to comply with requirements under IC 6-1.1-35-1.1.

SECTION 62. Effective July 1, 2004, but comes into play in 2007, after next election. Amends IC 36-6-4-2 to provide that the township assessor forfeits his/her office if the assessor fails to comply with requirements under IC 6-1.1-35-1.1.

SECTION 63. Effective July 1, 2004, but comes into play in 2007, after next election. Amends IC 36-6-5-1 to provide that township trustee-assessor forfeits his/her office if the assessor fails to comply with requirements under IC 6-1.1-35-1.1.

SECTION 64. Effective upon passage. Amends IC 36-7-14-39.5 (TIF) to conform the application of the additional credit to installment payments of property taxes.

SECTION 65. Effective upon passage. Amends IC 36-7-15.1-26.5 (Indianapolis TIF) to conform the application of the additional credit to installment payments of property taxes.

SECTION 66. Effective upon passage. Amends IC 36-7-15.1-35 (Indianapolis Housing TIF) to conform the application of the additional credit to installment payments of property taxes.

SECTION 67. Effective upon passage. Amends IC 36-7-15.1-56 (TIF in excluded cities) to conform the application of the additional credit to installment payments of property taxes.

SECTION 68. Effective upon passage. An individual who did not receive certain property tax deductions (mortgage, mobile home, blind, disabled, disabled veteran or surviving spouse, or WWI veterans,) for property taxes first due and payable in 2003, but satisfied the eligibility criteria for such deductions, and failed to timely file a deduction application for the benefit of property taxes first due and payable after December 31, 2003, may claim a benefit for taxes payable in 2004 by filing for the homestead credit and the other deductions by December 15, 2003.

The county auditor, upon determining that an individual satisfies the appropriate eligibility criteria, must apply the benefit to the taxes first due and payable in 2004 and notify the Department of Local Government Finance a revised certification under IC 6-1.1-17-1(a) that reflects the benefits applied to property taxes payable in 2004 and homestead deductions.



The auditor must also certify to the Department of Local Government Finance the amount of homestead credits allowed in the county. The Department of Local Government Finance is required to use the revised certifications in its determination of tax rates for taxes first due and payable in 2004.

The Department of Local Government Finance may increase a political subdivision's tax rate to an amount that exceeds the amount originally fixed by the political subdivision based on the revised certification.

Each year a person who is entitled to receive a homestead credit is entitled to the homestead deduction.

SECTION 69. Effective upon passage. Validates and legalizes actions taken by the Department of Local Government Finance to extend the time for filing appeals beyond the 45 day period authorized by statute, allow the payment of property taxes in installments, or waiving all or part of a penalty for untimely payment of property taxes.

SECTION 70. Effective upon passage. Requires the Department of Local Government Finance to study the feasibility of creating uniform and common computer software programs for property tax assessment purposes, including programs that allow the sharing and transfer of assessment data in a uniform format by the state and all counties. Results of study are due to the commission on state tax and financing policy before September 1, 2004.

SECTION 71. Effective upon passage. Provides that language-requiring payment of taxpayer property tax refunds (without the necessity of filing a claim) applies only to refunds resulting from assessment reductions for which taxpayers are given notice after December 31, 2003.

SECTION 72. Effective upon passage. Provides that the required submission of certain library taxing district property tax levies applies to property taxes first due and payable after December 31, 2004.

SECTION 73. Effective upon passage. Provides that the change to the definition of "maximum permissible ad valorem property tax levy for the preceding calendar year" applies to property taxes first due and payable after December 31, 2003.

SECTION 74. Effective upon passage. Provides that the changes to excess levy appeals for civil taxing units and emergency appeals for school corporations applies to property taxes first due and payable after December 31, 2003.

SECTION 75. Effective July 1, 2004. Provides that the changes to the amounts that are to be deposited in the levy excess funds apply to property taxes first due and payable after December 31, 2003.

SECTION 76. Effective upon passage. Provides that certain provisions containing formula for determining maximum levies apply to property taxes first due and payable after December 31, 2003.

SECTION 77. Effective July 1, 2004. Requires county assessors, township assessors and township trustee-assessors to comply with mandatory requirements for certification as an assessor-appraiser only if the assessor or trustee assessor is elected to a new term of office that begins after December 31, 2005.

SECTION 78. Effective May 10, 2002- retroactive. Establishes a retroactive mechanism for the filing of written requests for preliminary conferences for appeals of property assessments.

SECTION 79. Effective upon passage. Requires the Department of Local Government Finance to prescribe a form for explaining the effect, on the average countywide effects of tax restructuring in 2002 and in this act on the net property tax liability of homeowners. The form must include a comparison of the amount of the average tax that would be due in the county had the tax reforms not been enacted and the average tax now due. The form must include a statement that local government tax increases may have reduced the amount of tax relief provided. The form is to be delivered to each county treasurer not later than the date the Department of Local Government Finance certifies the county's budgets, tax rates and levies.

SECTION 80. Effective upon passage. Authorizes the Department of Local Government Finance to adopt temporary rules in the manner provided for adopting emergency rules to implement new statutes requiring the assessment of residential rental property and the preparation of rules and forms by the Department of Local Government Finance. Provides for the expiration of those temporary rules.

SECTION 81. Effective upon passage. Prohibits the Department of Local Government Finance from prescribing a form for taxpayers to use to request a preliminary conference under IC 6-1.1-15-1. Any written document containing the information specified in IC 6-1.1-15-1(b) is sufficient to initiate a conference. Authorizes the Department of Local Government Finance to modify the Form 130 to enable township assessors and taxpayers to report the results of preliminary conferences. Provides that taxpayers who filed a petition for review prior to the amendments to the statute are not required to file a request for a preliminary conference.

SECTION 82. Effective upon passage. Requires the commission on state tax and financing policy to study the elimination of property taxes as a source of funding for local government services other than police and fire protection and public health purposes and to study alternative sources of revenue that might be used to replace property taxes. Study must be completed no later than December 31, 2005.

SECTION 83. Effective January 1, 2004. Appropriates sufficient funds to the Department of Local Government Finance from the assessment-training fund to undertake the required formulation of electronic protocols for delivery of sales disclosure data.

SECTION 84. Effective March 1, 2004. Provides that the changes to the petition/remonstrance process do not apply to a controlled project for which a notice of preliminary determination was published before March 1, 2004.

SECTION 85. Effective upon passage. IC 6-3-1-3.5 applies only to taxable years after December 31, 2003.

SECTION 86. An emergency is declared for this act.



